HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 11559 OF 2006

DATED: 19.6.2006

Between:

M/s. Spectrum Power Generation Limited

… Petitioner

and

Transmission Corporation of Andhra

Pradesh Limited (AP Transco) and others

… Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.11559 OF 2006

ORAL ORDER:

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The petitioner-company assails a show cause notice issued by the respondent-Corporation dated 11.5.2006 on several grounds. The order reads as under:

> *"This is to inform you that with reference to the insurance premia being paid by you the AG Audit has pointed out that the insurance policy taken by you which inter alia covers the consequential loss in terms of gross profit arising out of damage and destruction of project is not in accordance with the provisions of PPA. The audit observed the payment in excess of premium payable under Section I is not admissible and is irregular. APTRANSCO made excess payment of Rs.13.834 crores (for the period 1998-99 to 2005-06) to SPGL towards inadmissible insurance premia for coverage of loss of gross profit, which is beyond the provision of PPA.*
>
> *You are therefore informed that our liability in this respect will be confined to reimbursing the premium paid by you under Section I only. Further you may show cause why the excess amounts already paid to you from initial tariff year cannot be recovered from your future bills. Please note that if no reply is received within 15 days from the date of this receipt of the notice it will be construed you have nothing to offer and accordingly appropriate action will be initiated".*

The petitioner has submitted its explanation/reply on 29.5.2006 and 1.6.2006 to the show cause notice.

Sri T. Anantha Babu, learned senior counsel on instructions from Sri M. Sriramulu Reddy, learned Standing Counsel for the respondents, has stated to the court that the respondents have yet to take a final decision on the claims made in the show cause notice and would do so only after considering the explanation submitted by the petitioner-company. It is also submitted that as and when a decision is taken, if it be adverse to the interests of the petitioner-company, it would not be given effect to and no recoveries would be made on

the basis of the said decision for a period of 15 days from the date of service of the order by the respondents on the petitioner-company so as to enable the petitioner to pursue appropriate remedies, if it so desires.

In the circumstances, after recording the above submission made by the learned senior counsel on behalf of the respondent-Corporation, the writ petition is disposed of directing the respondents to pass an order duly considering the explanation submitted by the petitioner-company on 29.5.2006 and 1.6.2006 and communicate the decision taken to the petitioner-company by Registered Post Acknowledgment Due. The respondents shall not effect any recoveries from the amounts payable to the petitioner-company, if the decision be adverse to the petitioner-company, for 15 days from the date the order of the respondents is served on the petitioner-company.

The writ petition is disposed of as above, after hearing the learned counsel for respective parties. No order as to costs.

GODA RAGHURAM, J

Date: 19.6.2006

CVM